A

H.Dept 256.47 Mas 30/6

File No. 229(C)

19 31.

Collection No.(1)

Mysore Residency

Bangalore.

Pros. Serial Nos.

Subject.

General circulars of the Central Board of Revenue.

(1931)

Previous References.

Later References.

F.No.634 of 1934

S. 97.—(Blue).

MFP—168S&P—(M-184)—11.8.34—60,000.

NOTES AND PRECIS.

FILE No. ೨೨೨(೮) 1931 .

Section. File No.

Heading Serial No.

NOTES.

DEPT. BRANCH.

Pros. 19 Nos.

Subject.

General circulars of the Central Board of Revenue.

Notes and Orders.

S. 1.

SGPI—FP—379DCFMis.—4-12-24—2,00,000.

S.N. 1

S.N. 2

Circular No.10 of 1931 of the Central Board of Revenue, dated 3-7 -31

Express Letter from the Central Board of of Revenue, No.C.428-I.T./30,d/9-7-31

PUC II cancels PUC I "until further instructions" Both may be filed for the present.

14.7.31

15.7.31

S.N. 3. Issued No. 5106, dated the 18th July 1931.

S.N. 4. Circular No. 10. of 1931, dated the 11th July 1931, R. Dis. No. 427-I.T./31 from Central Board of Revenue.

PUC I

S.N. 5. Endorsement D Dis No. 461-I.T/31, dated the 21st July 1931, from the Offg. Secretary, Central Board of Revenue.

S.N. 6. Letter R. Dis. No. 428-I.T./30, dated the 16th July 1931, from Central Board of Revenue.

PUC II

S.N. 7. Corrigendum D. Dis No. 461-(i)-I.T./31, dated the 23rd July 1931, from the Central Board of Revenue.

IV

A B

Please see S.N. 1 and 2.

P.U.Cs I, II, and IV may be forwarded to the Assist. Commissioner of Income-tax, C & M Station, Bangalore, for information and guidance. P.U.C. III may be filed after destroying S.N. 1.

A

Draft

Draft submitted.

Sheriff.
24.8.31.

27.8.31

S.N. 8.

Issued No. 6354, dated the 2nd September 1931.

(Note in Sl. 9 September)

S.N. 10.

Note for Sl. 9 please see next sheet

Addendum -- R. Dis. No. 427-(i)-I. T. /31, dated the 21st August 1931, from the Central Board of Revenue.

A B

Please see S.N. 4 and 8.

Draft submitted.

Sheriff.
3.9.31.

5.9.31

sl.11.

Issued No.6575, dated the 11th Septr. 1931.

S.N.9

Circular No.11 of 1931 of the Central Board of Revenue , dated 1-8-31

The above may be noted for guidance, if and when applications of the kind referred to are submitted to the Central Board of Revenue. No action is called for at present.

CVO
12.8.31

A.S.

14.8.31

p.u.c.
sl.12.

Circular No.13 of 1931/R.Dis.No.389-I.T./31, dated the 22nd August, 1931, from the Secy., Central Board of Revenue, Simla.

(B)

Please see sl. 3.

Draft endorsement is submitted.

14.9.31

17.9.31

S.N.13.

Issued: No.6822 dated the 19th Sept. 1931.

S.N.14.

Endorsement No.D.O.D.A.Dis.No.578-I.T./31 dated the 9th September, 1931, from Secretary, Central Board of Revenue, Simla.

Copy of the correspondence may be sent to the Assistant Commissioner of Income-tax, for information.

Draft submitted.

21-9-31

21.9.31

sl.15.

Issued No.7136, dated the 3rd October 1931.

Rec. 5-16

C.

Endt. No. 535-I.T./31, dated the 18th September, 1931 from the Central Board of Revenue, Simla.

Draft endt. submitted.

S. Narasimhan
15. 10. 31.

16/X

17. X. 31

sl. 17. Issued No.7722, dated the 27th October, 1931.

~~P.U.C.~~
S.N.1

D.O. letter C.No.775-I.T/31, dated the 5th December, 1931 from the Central Board of Revenue, New Delhi.

---

(1)

A copy of the p.u.c. may be sent to the Collr. and Assistant Commissioner of Income-tax, C. & M. Station, for information.

Draft submitted.

T.Narainsam
19.12.31.

19/12

(2) Issue & Secy. to see on return.

21.12.31

~~W~~ S.N.2 Issued No.9220, dated the 28th December, 1931.

Submitted with reference to para 2 ante.

T.Narainsami
31.12.31.

Secretary.

31/12

P.u.c I

Memo. D.Dis.No.391-I.T/31, dated the 24th December, 1931, from the Central Board of Revenue.

II

Memo. D.Dis.No.391(i)-I.T./30, dated the 9th January, 1932, from the Central Board of Revenue, New Delhi.

A copy each of the p.u.cs I & II may be forwarded to the Collector and Assistant Commissioner of Income-tax.

Draft endt. submitted.

P. Narainsami
11.2.32

Issue and submit to Secy for information

(R)

Issued No.1270, dated the 18th February, 1932 and submitted.

P. Narainsami
20.2.32

Secretary.
(on return)

CORRESPONDENCE.

GOVERNMENT OF INDIA.

Central Board of Revenue. DEPARTMENT.

EXPRESS LETTER

[*N.B.—This is an ORIGINAL MESSAGE, sent by post to save telegraphic expense and undue use of the wires, but intended to be treated, on receipt, with the same expedition as if it had been telegraphed. To save time and formalities it is worded and signed as if it had been so despatched.*]

FROM

Offg. Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax.

No. C. 428-I.T/30. *Dated* Simla, the 9th July *193* 1

Trustees - Court of Wards, etc. - Assessment on behalf of beneficiaries - Indian Income-tax Act, 1922 - XI of 1922 - Sections 40-41 - Board's Circular No. 10 of 1931 R.Dis.No.428-I.T./30, dated the 3rd July 1931.

Put I

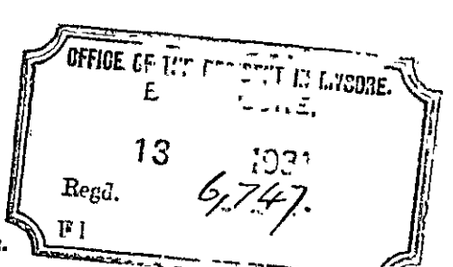
out on file

Please consider the Circular quoted above as withdrawn till further instructions.

Ram Nath

9-7-31

Offg. Secretary, Central Board of Revenue.



BRS.9/7.
S. 6.

MGIPC—81—61(CSP)DCF—(G-1227)—21-3-30—4,00,000.

Circular No. 10 of 1931.

R. Dis. No. 427-I.T./31.

CENTRAL BOARD OF REVENUE.

Simla, the 11th July 1931.

C I R C U L A R.

Indian Income-tax Act, XI of 1922-Sections 4(3) and 50-Charitable institutions, &c. - Income from securities - Time-limit to refunds.

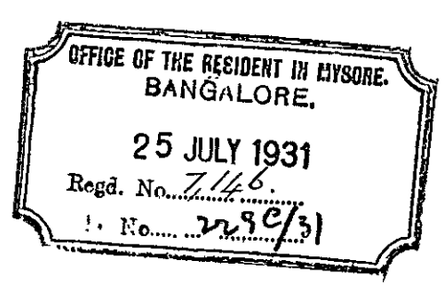
Section 50 does not apply to refunds of amounts deducted from income to which **ab initio** the Indian Income-tax Act does not apply. The classes of income mentioned in sub-section (3) of section 4 of the Act fall within this category. The Act does not give authority for the grant of refunds in respect of interest on securities which constitutes or forms part of any of the kinds of income referred to in that sub-section, and consequently lays down no time-limit for the grant of such refunds. The Government of India have decided that such refunds should be paid under executive orders, and that the concession should be restricted to claims made in such time that if a suit had been filed against Government, the suit would not have been barred by the time-limits laid down in the Indian Limitation Act, 1908 (see Articles 62 and 63 of the first Schedule to that Act). Refunds of the kind described, therefore, should be granted if application is made to the Income-tax Officer within three years of the date of collection of tax.

17-7-31

Offg. Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax.



Rudra 22/7

D.O. C.No.461-I.T/31.

CENTRAL BOARD OF REVENUE.

Simla, the 21st July 1931.

My dear Pearce,

Indian Income-tax Act (XI-22) - Section 60 - Notification under - Salaries and Dividends received in 1929-30 - Reduction in rate of - Income-tax in respect of.
Your D.O. No.141-A.G. dated 16. 7. 31.

The case referred by Graham and dealt with by Tottenham in paragraph 3 of his D.O.C.No.157-I.T/30, dated the 19th May 1930 to Graham was one in which the assessee had income as follows:-

Rs.22,000 assessable at 12 pies
Rs. 2,000 assessable at 13 pies

Rs.3,000 was paid as life insurance premia.

Tottenham's decision was that this assessee should suffer Rs.21,000 at 12 pies. This can only mean that the relief should be assigned first to that part of the income which is liable to the higher rate and the balance only to that part of the income which is liable to the lower rate.

2. I do not think that this result is altogether equitable; nor do I think it would be equitable to take the converse action, so that the rate of rebate should be the rate of tax payable on the salary so long as the deduction claimed does not exceed one-sixth of the salary or other income from which tax is liable to be deducted at source, leaving any portion of the claim in excess of this one-sixth to be set off against other sources. The equitable course, in my opinion, would be your alternative, viz. to calculate the rebate at two rates on the amounts of premia divided in the proportion which the income from which tax is liable to be deducted at source and the income from other sources bear to each other. But there is no legal authority for adopting such a course - or indeed, for adopting either of the other two courses: and I can only conclude that Tottenham held, that, in this doubt the usual legal maxim should be followed and the benefit of the doubt

given to the assessee.

3. I do not think that it is expedient to attempt to depart from this conclusion. At the same time, the point will be noted for consideration when we legislate to put the arrangements such as were made by Notification No.18 of 5th April 1930 on a regular footing: such legislation is required before rates come down again; as we can hardly create the converse position by notification.

4. Two points before I leave this subject:-

(a) Some officers take their relief under section 15 in the course of the year in which the tax is deducted from their salaries by sending their premium receipts in to their employers or account officers, and such reduction of the tax payable has, of course, been at the lower rate: I do not think we are under any obligation to reopen such cases in the course of final assessment unless expressly asked to do so.

(b) The point does not arise in connection with provident fund deductions under section 58 F; proviso (i). under the proviso the relief is there definitely connected with the tax on "salaries" by the terms of the proviso, and relief should consequently be given in accordance with the rate applicable to the salary.

Yours sincerely
Sd. A.H. Lloyd
21. 7. 31.

W.R. Pearce Esq.
Commissioner of Income-tax,
Punjab, N.W.F. & Delhi Provinces.

Copy forwarded to all Commissioners of Income-tax (except Punjab) for information.

By order, etc.

21.7.31

Offg. Secretary, Central Board of Revenue.

OFFICE OF THE RESIDENT IN MYSORE.
BANGALORE.
27 JULY 1931
Regn. 7183

R.Dis. No. 428-I.T./30.

CENTRAL BOARD OF REVENUE.

Simla, the 16th July 1931.

From

Rai Bahadur Pandit Ram Nath, B.A.,
Offg. Secretary, Central Board of Revenue,

To

All Commissioners of Income-tax.

Sir,

S.N.1 A / S.N.2 B — Trustees- Court of Wards etc.- Assessments on, on behalf of beneficiaries- Indian Income-tax Act, 1922- XI of 1922- sections 40-41- Board's Circular No. 10 of 1931, R.Dis.No.428-I.T./30 dated the 3rd July 1931, and my express letter C. No. 428-I.T./30, dated the 9th July 1931.

In continuation of my express letter quoted above, I am directed to say that the Circular in question is cancelled and should be destroyed. The circular letter which was quoted at the head of Circular No. 10 of 1931 (No. 4264, dated 15th September 1924) was among those superseded by paragraph 8 of Circular No. 19 of 1930. (R.Dis. No. 573-I.T./30, dated the 23rd July 1930).

S.N.8 - C
y Question I

I have the honour to be,

Sir,

Your most obedient servant,

Ram Nath
20-7-31

Offg. Secretary,

Central Board of Revenue.

OFFICE OF THE RESIDENT IN MYSORE.
BANGALORE.
27 JULY 1931
Regd. ... 7182 ...
To ...

D.Dis.No.461-(i)-I.T./31.

CENTRAL BOARD OF REVENUE.

Simla, the 23rd July 1931.

CORRIGENDUM.

In Mr. Lloyd's d.o. D.Dis.No.461-I.T./31, dated the 21st July 1931 to the Commissioner of Income-tax. Punjab, (copies of which were forwarded to all other Commissioners) paragraph 4, sub-paragraph (b), for the words "under Section 7(i) proviso or Section 58 F" substitute the words "under Section 7(i). proviso. Section 58 F or those words in Section 15 which refer to a contribution to any Provident Fund to which the Provident Fund Act. 1897, applies;" and for the words "by the terms of the proviso" substitute the words "by the terms of the proviso to Section 7(i) or of Section 58 C(1)(b) or by the universal practice followed in the working of provident fund funds to which Act No.XIX of 1925 applies, respectively."

24.7.31.

Offg. Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax.

OFFICE OF THE RESIDENT IN MYSORE.
BANGALORE.
28 JULY 1931
Page 7256

MV/24.7.31.

Read 28.7.6

2nd Sept. 8

No. 6357 Bangalore, dated the 2 1931.
Rev.-3

*

A copy of the marginally noted papers is forwarded to the Assistant Commissioner of Income-tax, Civil and Military Station, Bangalore, for information and guidance.

27/8

For Secretary to the Resident.

Shriff. 24.8.31.

*

P.u.c.

I Circular No. 10 of 1931, dated the 11th July 1931, from Central Board of Revenue.

I Endt. D Dis No. 461-I.T/31, dated the 21st July 1931, from Central Board of Revenue.

IV Corrigendum D. Dis No. 461-(i)-I.T./31 dated the 23rd July 1931, from the Central Board of Revenue.

1.8.31

CIRCULAR No.12 OF 1931.
R.Dis.No.533-I.T./31.

CENTRAL BOARD OF REVENUE.

SIMLA, the 20th August 1931.

C_I_R_C_U_L_A_R.

Partnership - Minor - Inclusion of -
Legality of -.

The Advocate General, Bombay, has advised that under the Indian Contract Act a minor cannot become a partner in a firm. Since the words 'firm', 'partner' and partnership' have in the Indian Income-tax Act the same meanings respectively as in the Indian Contract Act, it follows that a minor cannot be recognised as a partner for the purpose of the registration of a firm under section 26A of the Income-tax Act, 1922.

Ram Nath
22-8-31

Offg. Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax.

R.N.R.
22.8.31.

OFFICE OF THE RESIDENT IN MYSORE.
BANGALORE.
29 AUG. 1931
Regd. No. E 293.
File. No. 229 C/31

6426

No. ~~6246~~

4th Sept. 1931.

Copy forwarded to the Assistant Commr. of Income-tax, C & M Station, Bangalore, for ~~xxxxxxxxx~~ information and guidance.

for Secretary to the Resdt
&
Commr. of Income-tax

CNR
31/8/31

9.9.31

CIRCULAR No.12 OF 1931.
R.Dis.No.533-I.T./31.

CENTRAL BOARD OF REVENUE.

SIMLA, the 20th August 1931.

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Legality of -.

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Ram Nath
22-8-31

Offg. Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax.

R.N.R.
22.8.31.

CIRCULAR No.12 OF 1931.
R.Dis.No.533-I.T./31.

CENTRAL BOARD OF REVENUE.

SIMLA, the 20th August 1931.

C_I_R_C_U_L_A_R.

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Legality of -.

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J. Ram Nath
22-8-31

Offg. Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax.

R.N.R.
22.8.31.

CIRCULAR No.12 OF 1931.
R.Dis.No.533-I.T./31.

CENTRAL BOARD OF REVENUE.

SIMLA, the 20th August 1931.

C_I_R_C_U_L_A_R.

Partnership - Minor - Inclusion of -
Legality of -

The Advocate General, Bombay, has advised that under the Indian Contract Act a minor cannot become a partner in a firm. Since the words 'firm', 'partner' and 'partnership' have in the Indian Income-tax Act the same meanings respectively as in the Indian Contract Act, it follows that a minor cannot be recognised as a partner for the purpose of the registration of a firm under section 26A of the Income-tax Act, 1922.

Ram Nath
22-8-31

Offg. Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax.

R.N.R.
22.8.31.

Circular No.11 of 1931.
C.No.7-I.T./31.

CENTRAL BOARD OF REVENUE.

SIMLA, the 1st August 1931.

C I R C U L A R.

Indian Income-tax Act (XI-22) - Section 60(2) - Relief under -

Before applications for the grant of relief under section 60(2) of the Indian Income-tax Act, 1922, are submitted to the Board, the Commissioners of Income-tax are requested always to verify whether the applicant would not have paid income-tax at a higher rate in any year in which part of the salary was short-paid if the short-payment had not occurred. It is necessary to have this information in order that the Government may be put in a position to decide whether, in calculating the relief to be granted in respect of one year's assessment, any allowance should be made for an advantage gained in this way in respect of another year's assessment.

Ram Nath
3-8-31

Offg. Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax.

R.N.R.
3.8.31.

OFFICE OF THE RESIDENT IN MYSORE.
BANGALORE.
10 AUG. 1931
Regd. 7648
229 C/31

Circular No.11 of 1931.
C.No.7-I.T./31.

CENTRAL BOARD OF REVENUE.

SIMLA, the 1st August 1931.

C I R C U L A R.

Indian Income-tax Act (XI-22) - Section 60(2) - Relief under -.

Before applications for the grant of relief under section 60(2) of the Indian Income-tax Act, 1922, are submitted to the Board, the Commissioners of Income-tax are requested always to verify whether the applicant would not have paid income-tax at a higher rate in any year in which part of the salary was short-paid if the short-payment had not occurred. It is necessary to have this information in order that the Government may be put in a position to decide whether, in calculating the relief to be granted in respect of one year's assessment, any allowance should be made for an advantage gained in this way in respect of another year's assessment.

Ram Nath
3-8-31

Offg. Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax.

R.N.R.
3.8.31.

Circular No.11 of 1931.
C.No.7-I.T./31.

CENTRAL BOARD OF REVENUE.

SIMLA, the 1st August 1931.

C I R C U L A R.

Indian Income-tax Act (XI-22) - Section 60(2) - Relief under -.

Before applications for the grant of relief under section 60(2) of the Indian Income-tax Act, 1922, are submitted to the Board, the Commissioners of Income-tax are requested always to verify whether the applicant would not have paid income-tax at a higher rate in any year in which part of the salary was short-paid if the short-payment had not occurred. It is necessary to have this information in order that the Government may be put in a position to decide whether, in calculating the relief to be granted in respect of one year's assessment, any allowance should be made for an advantage gained in this way in respect of another year's assessment.

Ram Nath
3-8-31

Offg. Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax.

R.N.R.
3.8.31.

Circular No.11 of 1931.
C.No.7-I.T./31.

CENTRAL BOARD OF REVENUE.

SIMLA, the 1st August 1931.

C I R C U L A R.

Indian Income-tax Act (XI-22) - Section 60(2) - Relief under -.

Before applications for the grant of relief under section 60(2) of the Indian Income-tax Act, 1922, are submitted to the Board, the Commissioners of Income-tax are requested always to verify whether the applicant would not have paid income-tax at a higher rate in any year in which part of the salary was short-paid if the short payment had not occurred. It is necessary to have this information in order that the Government may be put in a position to decide whether, in calculating the relief to be granted in respect of one year's assessment, any allowance should be made for an advantage gained in this way in respect of another year's assessment.

Ram Nath
3-8-31

Offg. Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax.

R.N.R.
3.8.31.

Circular No.11 of 1931.
C.No.7-I.T./31.

CENTRAL BOARD OF REVENUE.

SIMLA, the 1st August 1931.

C I R C U L A R.

Indian Income-tax Act (XI-22) - Section 60(2) - Relief under -.

Before applications for the grant of relief under section 60(2) of the Indian Income-tax Act, 1922, are submitted to the Board, the Commissioners of Income-tax are requested always to verify whether the applicant would not have paid income-tax at a higher rate in any year in which part of the salary was short-paid if the short-payment had not occurred. It is necessary to have this information in order that the Government may be put in a position to decide whether, in calculating the relief to be granted in respect of one year's assessment, any allowance should be made for an advantage gained in this way in respect of another year's assessment.

Ram Nath
3-8-31

Offg. Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax.

R.N.R.
3.8.31.

10

R.Dis.No.427-(i)-I.T./31.

CENTRAL BOARD OF REVENUE.

Simla, the 21st August 1931.

CIRCULAR NO. 10 OF 1931.

Addendum.

Insert as paragraph 2:-

"2. These orders do not apply to income from dividends of Companies assessed to income-tax in British India, because in such a case the company has been legally taxed and it cannot be said that the income was income to which ab initio the Indian Income-tax Act did not apply. When claims for refunds on account of dividends are made by charitable institutions, etc. which are exempt from tax, they fall to be dealt with under section 48(1) of the Act - the "rate applicable" being nil - and the time-limit prescribed by section 50 therefore applies."

J Ram Nath
25-8-31

Offg. Secretary, Central Board of Revenue.

T

All Commissioners of Income-tax.

OFFICE OF THE RESIDENT IN MYSORE.
BANGALORE.
31 AUG. 1931
Regd. 8333
229e/31

BRS.24/8.

[R.O. 106 (a).]

All communications should be addressed to the Secretary to the Resident in Mysore, Bangalore, by designation and not by name.

OFFICE OF THE RESIDENT IN MYSORE,

Bangalore, 11th Sept 1931

No. 6575 Enclos. 1

S.N. 9. Pu.C.

A copy of the marginally* noted paper is forwarded to the Assistant Commissioner of Income-tax, Civil and Military Station, Bangalore, in continuation of the endorsement from this office No. 6354, dated the 2nd September 1931.

R.Dis.*No. 427-(i)-I.T./31, dated the 21st August 1931, from the Central Board of Revenue.

S.N. 8.
B

for Secretary to the Resident.

23—10-4-1931—5,000—RPB.

Sheriff.
3.9.31

OFFICE OF THE RESIDENT IN MYSORE,
BANGALORE.
9 SEPT 1931
Regd. No. 865
File. No. 229 C/31

Circular No. 13 of 1931.
R.Dis. No. 389-I.T./31.
CENTRAL BOARD OF REVENUE.
Simla, the 22nd August 1931.

CIRCULAR.

Firms - Registration of - Refusal of Income-tax Officer - Appeal - Indian Income-tax Act, XI of 1922 - Section 30.

S. 3 (B)

As a result of a reference to th Government of India, it has become necessary to cancel Board's Circular No. 9 of 1931, dated the 30th June 1931, and to issue revised instructions in its place.

2. When an Income-tax Officer has refused to register a firm, no appeal lies to the Assistant Commissioner of Income-tax under section 30 of the Indian Income-tax Act, 1922, against non-registration, whether from the firm itself or from any partner who regards himself as aggrieved; similarly, no partner in a firm is entitled to appeal under that section against the validity of a registration.

3. Nor can either point be taken up in an appeal under section 30 against the assessment of the firm or of a partner, even though the appellant may argue that his assessment has been affected to his disadvantage by the decision in the matter of registration. An appeal under section 30 lies only against anything decided in the proceedings leading to the assessment, and the decision that a firm is or is not entitled to registration is not reached in those proceedings but in separate proceedings under section 26A. So long as there is in force a decision of the Income-tax Officer that the firm is or is not entitled to be registered, the Income-tax Officer, in making the assessment under section 23, must respect that decision and the appellate authority also must respect that decision.

4. Commissioners of Income-tax have power to interfere with an Income-tax Officer's decision to register a firm or refuse registration, and since the point cannot be taken up in appeal they should always be ready to consider and decide applications requesting them xxx

them to exercise their power of review under section 33.

5. When an Income-tax Officer becomes aware that any party is dissatisfied with a decision given under section 26A, he should advise the party to apply forthwith to the Commissioner of Income-tax for review under section 33, and if an application for review is made he should delay completing the assessment until it has been disposed of, provided always that it is presented with due diligence. This refers to applications for review only. It would not be proper for the Income-tax Officer to delay making the assessment pending the decision of a suit filed to set aside the order of the Income-tax Officer refusing or granting registration; (it will be observed that a suit in this respect is not barred by section 67).

6. It is true that High Courts have in more than one instance dealt with references under section 66(2) concerning refusals to register partnerships (e.g. Calcutta reference No.13 of 1930, in re: Messrs. Ramlal Murlidhar); and it is also true that a reference under section 66(1) 66(2) can only be made in the course of an assessment or any proceeding in connection therewith. The statements of case in those references, however, reveal that the admissibility or otherwise of the references as arising "in the course of assessment, etc." was not questioned by the Commissioners of Income-tax; thus, as the point was not before them, the Hon'ble Judges cannot be said by their action in admitting the references to have held, by implication, that they were admissible. No inference, therefore, can be drawn that, on this analogy, it is the view of High Courts that questions of the kind can be raised in assessment proceedings under section 23 or appeals therefrom under section 30.

3-9-31

Offg. Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax.

SAK.
1/9/31.

13

No. 6822 Encl-1 (3 copies) 19th Sept. 1931.

P.U.C (S. 12).

Circular No.13 of 1931/R.Dis. No.389-I.T./31, dated the 22nd August, 1931, from the Central Board of Revenue, Simla.

sl.3.

Not put up.

A copy of the marginally noted Circular is forwarded to the Assistant Commissioner of Income-tax, Civil and Military Station, Bangalore, for information and guidance, in continuation of endorsement from this office No.5106, dated the 18th July, 1931.

for Secy. to the Resident
and
Commr. of Income-Tax.

14-9-31

18.7.31

14

D.O.D.A.Dis.No.572-I.T./31.

CENTRAL BOARD OF REVENUE.

SIMLA, the 9th September 1931.

My dear Johnston,

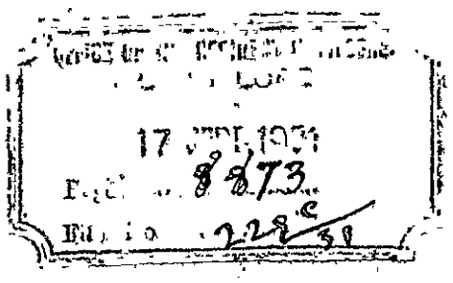
Ruling Princes and Chiefs - Interest on securities held by - Tax on - Refund - Procedure -.

Your D.O.No.A.222/4., dated the 4th September 1931.

R

Paragraphs 1 to 3: You are right.

Paragraph 4: Yes; compare recent orders about securities held by Charities. Paragraph 5: Your presumption is correct. Paragraphs 6 to 7: A revised paragraph 61A is about to issue.



Yours sincerely,

Sd/- A.H. LLOYD,

To

H. Johnston, Esquire, I.C.S.,

Commissioner of Income-tax, Bihar and Orissa.

Copy of correspondence forwarded to other Commissioners of Income-tax.

By order, etc.,

12-9-31

Offg. Secretary, Central Board of Revenue.

R.N.R.
10.9.31.

D.O.No.A-222/4.

COMMISSIONER OF INCOME-TAX,

BIHAR AND ORISSA.

Ranchi, the 4th September,1931.

My dear Lloyd,

Interest on Securities - Indian States and Chiefs - Held by - Procedure for taxation.

In Paragraph 61A of Instructions in the Income-tax Manual, 3rd edition, it was laid down that an Indian State is not assessable to Income-tax or Super-tax except under the Government Trading Taxation Act and Interest on Securities held by Indian States was therefore not taxable. while, on the other hand, Interest on Securities held by Ruling Princes and Chiefs as individuals was taxable. This ruling was subsequently modified by the Finance Department Notification No.60, dated the 20th December, 1930, under which the Interest on Government Securities held by Ruling Chiefs as their private property was exempt from tax by the Governor-General in Council under Section 60 of the Act.

2. In paragraph 61A of the 3rd edition of the Manual, it was directed that claims for refund should be admitted if presented to the Income-tax Officer within three years of the date of collection of the tax, but in paragraph 61A of the 4th edition, there is no reference to this three-year rule.

3. If I understand the situation rightly, claims for refund were admitted up-to three years in the case of Interest on Securities held by the Chiefs as heads of their States, because their income as such from Interest on Securities was not taxable, they being subject to taxation.....

taxation only in the case of income from trade or business under the Government Trading Taxation Act. On the other hand, the exemption from tax in respect of securities held by them in their private capacity is an exemption by an executive order and apparently an 'ex gratia' exemption.

4. Though the instruction regarding admission of claims to refund for a period of three years after the date of collection of the tax has been omitted from the new edition of the Manual, should this instruction still be followed in regard to claims for refund of tax on Interest on Securities held by the Chiefs qua heads of the States?

5. If my view is correct and I am right in distinguishing between the basis of the claim to refund in the two different cases, then I presume that the three-year rule will not apply in the case of the exemption from income-tax on Interest on Securities held by the Chiefs in their private capacity and that that exemption will be effective only from the date of the relevant notification, that is, 20-12-30.

6. The Income-tax Officer, Non-Residents Refund Circle, Bombay, is apparently granting refund orders at present. This is in accordance with paragraph 61 of the instructions in the Manual, but as these Chiefs as the heads of their States are not legally assessees at all or potential assessees perhaps the procedure is wrong.

7. In view of the last sentence of paragraph 61A of the instructions in the new edition, am I right in concluding that in future no certificates for exemption will be required.

Yours sincerely,

Sd/- W. JOHNSTON,
4.9.31.

To

A.H. LLOYD, ESQUIRE, C.I.E., I.C.S.,
MEMBER, CENTRAL BOARD OF REVENUE, SIMLA.

15

No. 7186 Resident's Office,
Encl 2 Bangalore, 24 Oct. 1931.

CR

* 1. D.O.letter No.A-222/4 dated the 4th September, 1931 from Mr. W. Johnston, I.C.S., Commissioner of Income-tax, Bihar & Orissa.

2. D.O.letter No.D.A.Dis.No.578-I.T./31 dated the 9th September,1931, from Mr.A.H.Lloyd, C.I.E.,I.C.S., Member, Central Board of Revenue.

A copy of the marginally noted* correspondence is forwarded to the Assistant Commissioner of Income-tax, Civil and Military Station, Bangalore, for information.

for SECRETARY TO THE RESIDENT &
COMMISSIONER OF INCOME-TAX.

21-9-31

I. No. 535-I.T./31.

CENTRAL BOARD OF REVENUE.

Simla, the 18th September 1931.

From

Rai Bahadur Pandit Ram Nath, B.A.,
Offg. Secretary, Central Board of Revenue,

To

The Commissioner of Income-tax,
Punjab, N.W.F. and Delhi Provinces,

Sir,

Indian Income-tax Act, section 60(2)- Payments in arrear- "rate at which it would otherwise have been assessed"- meaning of.
Letter from Mr. T.H. Matthewman, No. 96/929, dated the 18th August 1931.

xIxxamxdirxctedxtoxobservexthatxthexGovernmentxofxIndiaxarexpreparedxtoxinterpretxthexexpressionx"ratexxxx

15 DEC. 1931
F. & D.O. 11647
I. No. 2290/31

D.O. No. 775-I.T./31.

CENTRAL BOARD OF REVENUE,

New Delhi, the 5th December 1931.

My dear Kirkbride,

Finance Bill (Supplementary), 1931—Taxable limit—Lowering of—Assessment of lower incomes—Machinery for.

The existing Income-tax Officers should at once start, if they have not already done so, issuing Notices under Section 22(2) of the Indian Income-tax Act calling for Returns of income from all persons already known who are considered likely to have incomes in excess of Rs. 1,000 but not exceeding Rs.1,999. If subsequently additional Income-tax Officers are appointed with power to assess this 'class of incomes' (within the meaning of Sec. 5(4) of the Act) these new Officers can take up the proceedings where the existing Officers left them, and there is no need to issue fresh notices under Section 22(2).

2. The case is exactly parallel to that which arises when, during the pendency of proceedings once initiated by an Income-tax Officer in certain cases over which he has at the time territorial jurisdiction, the limits of his jurisdiction are modified so that a different Income-tax Officer acquires territorial jurisdiction over the cases in question. (See paragraph 2 of Central Board of Revenue Circular No.21/1930 R.Dis.No.521-I.T/30, dated 30-7-30).

(R)
S. N. 11
220-29

3. The same kind of situation also arises whenever in the ordinary course, owing to promotion, transfer, or death, one Income-tax Officer is succeeded by another.

4. It will obviously save time if Notices are issued in as many of these cases as possible without delay.

Yours sincerely,

A Tottenham
5. 12. 31.

Captain G. Kirkbride, (or successor)
Commissioner of Income-tax, Mysore
Bangalore.

D.O.No. 9220 /Rec'd
dt. 28.12.31.

From

The Secy. to the Resident
& Commr. of Income-tax.

To

G.H.Cooke, Esq., M.C., I.C.S.,

Collr. & Assistant Commr. of
Income-tax, C.& M.Station,
Bangalore.

Finance Bill (Supplementary), 1931-
Taxable limit- Lowering of- Assessment
of lower incomes- Machinery for.

D.O.

P.M.C.

I am desired to forward a copy of Sir Alexander Tottenham's demi-official letter C.No.775-I.T/31, dated the 5th December, 1931, regarding the issue of notices under Section 22(2) of the - Indian Income-tax Act.

(R)
sl.11/220-29

2. A copy of the Board's Circular No. 21/1930 R.Dis.No.521-I.T/30, dated the 30th July, 1930, referred to in para 2 of the above demi-official letter, was forwarded to you with this office endt. No.6740, dated the 28th August, 1930.

(K)
sl.12/ -do-.

Yours.....

21.12.31

Encl 28/12

Harainsami
19.12.31.

D.O. R.Dis.No.389-I.T./31. CENTRAL BOARD OF REVENUE.
New Delhi, the 29th December 1931.

My dear Senneck,

Firms - Registration of - Refusal of by Income-tax Officer/- Appeal against - Section 30 - Powers of Assistant Commissioners under - Rule 2(c) of Income-tax Rules 1922.
Central Board of Revenue's Circular No.13/31-R.Dis. No.389-I.T./31, dated 22. 8. 31.
Board's endorsement D.Dis.No.942(1)-I.T./28, dated 11. 12. 28.

(P)
S.N-12

In paragraph 6 of the circular quoted above "Section 66(2)" in the fifth line, is a mistake for "Section 66(1)".

2. You enquire how the Assistant Commissioner is to exercise the discretion to allow registration, given him under Rule 2(c). As you suggest, the answer given in the Board's instructions of the 5th of December, 1928, quoted by you is obsolete in so far as it contemplates an Assistant Commissioner's allowing registration on appeal where, in his opinion, it has been wrongly refused by the Income-tax Officer. In accordance with the Government's interpretation of the law, the Assistant Commissioner can only admit an application for registration made in the case of or in connection with appellate proceedings if the appellant has not applied for registration at any earlier stage and if the Assistant Commissioner is satisfied that he had reasonable cause for not presenting an application.

Yours sincerely,

Sd/- A.Tottenham,
29. 12. 31.

F.H.Senneck, Esq., I.C.S.,
Commissioner of Income-tax, Madras.

Endst. No.Dis.No.389(i)-I.T./31.

Copy forwarded to all Commissioners of Income-tax (except Madras).

By order, &c.,

29. 12. 31.

Secretary, Central Board of Revenue.

OFFICE OF THE RESIDENT IN MYSORE.
BANGALORE.
- 6 JAN. 1932
Rec'd ... 88 ...
Ans'd ...

DRS.30/12.

17

E. 229 / 1931.

No. 7722
Encl

27-10-31

Rec

C.No.535-I.T./31, dated the 18th September, 1931, from the Central Board of Revenue, Simla.

A copy of the marginally noted endt. with enclosure, is forwarded to the - Assistant Commissioner of Income-tax, Civil and Military Station, Bangalore, for information and guidance.

for Secy. to the Resident & Commr. of Income-tax.

A. Narainsami
15. 10. 31.